

Application Number 10/698,881
Response to Office Action mailed March 27, 2008

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REMARKS

This Response is responsive to the Final Office Action dated March 27, 2008. Applicant has not amended any of the claims. Claims 19-22, 28-29, 33-37 and 41-43 remain pending.

Claims 19-22, 28-29 and 41-43 are currently allowed. Claims 34 and 37 are objected to as being dependent upon rejected base claims, but would be allowable if such claims were re-written into an independent format.

Claims 33, 35 and 36 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gerber et al. (US 2004/0049240) (hereafter "Gerber"). The Examiner noted that these rejections can be overcome by showing that Gerber is disqualified as prior art under 35 U.S.C. 103(c).

Applicant hereby submits the following statement in compliance with MPEP 706.02(I)(2) to disqualify Gerber as prior art:

The inventions set forth in claims 33, 35 and 36 of the present Application and the subject matter of Gerber (US 2004/0049240) were, at the time the inventions set forth in claims 33, 35 and 36 of the present Application were made, owned by Medtronic, Inc.

For at least this reason, Gerber is disqualified as prior art to claims 33, 35 and 36 under 35 U.S.C. 103(c).

CONCLUSION

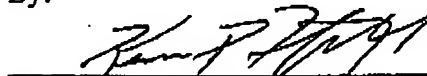
All claims in this application are now in condition for immediate allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

May 15, 2008

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